



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1512/P1

MPG:kjf:ph

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to: the budget; relating to:the budget; the budget; relating**
2 **to:the budget; relating to:the budget; the budget; relating to:the budget**

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

***** ANALYSIS FROM -0829/P6 *****

ADULT CORRECTIONAL SYSTEM

2009 Wisconsin Act 28 (the Act) made several changes to the adult correctional system, most of which took effect on October 1, 2009. Prior to the effective date of the provisions relating to the adult correctional system (pre-Act), a person who was imprisoned for a felony he or she committed prior to December 31, 1999, was allowed to petition the parole commission in DOC to be released to parole after the person served 25 percent of his or her sentence, or six months, whichever was greater. The parole commission determined whether, and under what conditions, the person should be released to parole. A person who committed a felony on or after December 31, 1999, is sentenced to a bifurcated sentence, with the first portion of the sentence served in confinement and the second portion served under extended supervision in the community.

Pre-Act, a person who was serving a bifurcated sentence was, with few exceptions, required to serve the entire confinement portion of his or her sentence before being released to extended supervision. A person's confinement portion could have been extended if he or she violated a prison regulation. If a person's confinement portion was extended for such a violation, the law pre-Act required his or her extended supervision portion to be reduced so that the total length of the person's sentence remained unchanged.

The law pre-Act allowed a person who is sentenced to a bifurcated sentence for a Class C to Class I felony to petition the sentencing court to adjust his or her sentence and release the person from prison to extended supervision if he or she has served 85 percent (for Class C to Class E felonies) or 75 percent (for Class F to Class I felonies) of the confinement portion of the sentence. If a person's confinement portion was reduced by the sentencing court, the law pre-Act required his or her extended supervision portion to be extended so that the total length of the person's sentence remained unchanged. Pre-Act, a person who was released to extended supervision was required to serve his or her entire sentence before extended supervision terminated.

The Act eliminates the role of the sentencing court in adjusting sentences and renamed the parole commission the earned release review commission (ERRC). The Act allows most persons who are incarcerated for a Class C to Class I felony to earn "positive adjustment time" toward early release from confinement. Under the Act, the amount of positive adjustment time a person can earn varies depending on the classification of the felony, the person's history and likelihood of reoffending, and other factors determined by DOC.

The Act requires DOC to release the person to extended supervision when he or she serves his entire period of confinement, minus positive adjustment time earned. Under the Act, if a person's period of confinement is reduced by positive adjustment time, his or her period of extended supervision is increased so that the length of the sentence does not change. The Act requires the ERRC to perform the duties previously performed by the parole commission and to review petitions for early release from confinement.

Under the Act, the sentencing court could, at the time of sentencing, order a person to serve a risk reduction sentence. A person serving a risk reduction sentence could be eligible for early release to extended supervision if he or she complies with a treatment plan developed for the person by DOC.

Pre-Act, persons who had committed most felonies were allowed to petition the sentencing court for release to extended supervision for the remaining term of his or her sentence if the person had a terminal condition, reached age 65 after serving at least five years of his or her term of confinement portion, or reached age 60 after serving at least ten years of his or her term of confinement portion.

Under the Act, the petition may also be filed by a person with any serious health condition and must be submitted to the ERRC instead of to the sentencing court. In addition, under the Act, DOC may release to extended supervision any person serving the confinement portion of a bifurcated sentence if the person is not confined following a violent offense, the person is believed to be able to live in the community without assaulting another, and the release will not be more than 12 months before the date that the person otherwise would be eligible for release to extended supervision. If DOC releases a person, his or her term of extended supervision must be extended by the length of time he or she was originally sentenced to confinement so that the total length of the sentence does not change.

Pre-Act, if a person sentenced to a bifurcated sentence violated any condition of his or her release to extended supervision, the person's extended supervision was

revoked, he or she was returned to prison, and the division of hearings and appeals within DOA or DOC (reviewing authority) made a recommendation to the court that convicted the person as to how long the person should remain in prison. After it received the reviewing authority's recommendation, the court was allowed to order the person to remain in prison for a period that did not exceed the time remaining on his or her bifurcated sentence.

Under the Act, the reviewing authority determines how long to imprison the person whose extended supervision is revoked and enters its own order for the person to remain in prison for a period that does not exceed the time remaining on his or her bifurcated sentence.

This bill eliminates positive adjustment time and risk reduction sentences, restores the parole commission, eliminates the ERRC, and returns the sentencing provisions, and most of the provisions relating to early release from confinement to pre-Act law. Under the bill, a person may petition the sentencing court for release to extended supervision for the remaining term of his or her sentence if the person has an extraordinary health condition, reaches age 65 after serving at least five years of his or her term of confinement portion, or reaches age 60 after serving at least ten years of his or her term of confinement portion.

Under the bill, a person who was sentenced after October 1, 2009, but before the effective date of the bill, and who earned positive adjustment time during that period may petition the sentencing court for an early release to extended supervision. If the sentencing court agrees to reduce the confinement portion of the person's sentence by the number of positive adjustment time days he or she earned, the sentencing court must increase the term of extended supervision by the same number of days. Under the bill, a person who was sentenced to a risk reduction sentence after October 1, 2009, but before the effective date of the bill and who complied with the program plan developed by DOC may be released to extended supervision after he or she serves at least 75 percent of the confinement portion of his or her sentence.

*** ANALYSIS FROM -1136/P1 ***

This bill changes, from annual to biennial, the appropriation for the general program operations of DOC.

*** ANALYSIS FROM -0214/P5 ***

JUVENILE CORRECTIONAL SYSTEM

Under current law, DOC must allocate various state and federal moneys to counties to pay for state-provided juvenile correctional services and local delinquency-related and juvenile justice services. DOC charges counties for the costs of services provided by DOC according to per person daily cost assessments specified by law (the "daily rate"). Currently, the daily rate is \$275 for care in a juvenile correctional facility, \$275 for care for juveniles transferred from a juvenile correctional institution, \$313 for care in a residential care center for children and youth, \$200 for care in a group home, \$75 for care in a foster home, \$130 for care in a treatment foster home, \$103 for corrective sanctions services, and \$41 for aftercare services.

This bill increases the daily rates for care in a juvenile correctional facility and for care for juveniles transferred from a juvenile correctional institution and

decreases the daily rates for corrective sanctions and after care services. In addition, the bill eliminates the statutory daily rates for care for juveniles in a residential care center for children and youth, group home, or foster home, and instead provides that the daily rate for each of those types of care is the amount the provider of that care charges DOC. The bill deletes treatment foster care from the list of services for which DOC charges a daily rate.

***** ANALYSIS FROM -0203/P3 *****

This bill also sets the total amounts that DOC must allocate to counties for state-provided juvenile correctional services and local delinquency-related and juvenile justice services in the 2011-13 fiscal biennium, based on a 10 percent reduction from the 2009-11 fiscal biennium.

***** ANALYSIS FROM -0215/P3 *****

Under current law, sum certain amounts are appropriated to DOC for juvenile correctional services, juvenile residential aftercare services, and juvenile corrective sanctions services. This bill provides that, if there is a deficit in the juvenile correctional services appropriation account at the end of a fiscal year, certain unencumbered balances in the juvenile residential aftercare services and juvenile corrective sanctions services appropriation accounts, up to the amount of the deficit and less any amounts required to be remitted to counties or deposited in the general fund, are transferred to the juvenile correctional services appropriation account.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

2011 DRAFTING REQUEST

Bill

Received: **02/22/2011**

Received By: **chanaman**

Wanted: **As time permits**

Companion to LRB:

For: **Legislative Reference Bureau**

By/Representing:

May Contact:

Drafter: **chanaman**

Subject: **State Govt - miscellaneous**

Addl. Drafters:

Extra Copies:

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Analysis compile for correctional system

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	chanaman	1/16/11 2/23		_____ _____			

FE Sent For:

<END>

CORRECTIONAL SYSTEM

-1512

Budget draft analyses

-0829
-1136

JP514

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CORRECTIONAL SYSTEM JUVENILE JUSTICE

-0214 (high)

-0216 (high)

-0203 (medium-high)

-0215 (medium)

-1308 (low)

MP6



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1512/P1

MRG: kgl

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Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

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ADULT CORRECTIONAL SYSTEM

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The Act eliminates the role of the sentencing court in adjusting sentences and renamed the parole commission the earned release review commission (ERRC). The Act allows most persons who are incarcerated for a Class C to Class I felony to earn "positive adjustment time" toward early release from confinement. Under the Act, the amount of positive adjustment time a person can earn varies depending on the classification of the felony, the person's history and likelihood of reoffending, and other factors determined by DOC.

The Act requires DOC to release the person to extended supervision when he or she serves his entire period of confinement, minus positive adjustment time earned. Under the Act, if a person's period of confinement is reduced by positive adjustment time, his or her period of extended supervision is increased so that the length of the sentence does not change. The Act requires the ERRC to perform the duties previously performed by the parole commission and to review petitions for early release from confinement.

Under the Act, the sentencing court could, at the time of sentencing, order a person to serve a risk reduction sentence. A person serving a risk reduction sentence could be eligible for early release to extended supervision if he or she complies with a treatment plan developed for the person by DOC.

Pre-Act, persons who had committed most felonies were allowed to petition the sentencing court for release to extended supervision for the remaining term of his or her sentence if the person had a terminal condition, reached age 65 after serving at least five years of his or her term of confinement portion, or reached age 60 after serving at least ten years of his or her term of confinement portion.

Under the Act, the petition may also be filed by a person with any serious health condition and must be submitted to the ERRC instead of to the sentencing court. In addition, under the Act, DOC may release to extended supervision any person serving the confinement portion of a bifurcated sentence if the person is not confined following a violent offense, the person is believed to be able to live in the community without assaulting another, and the release will not be more than 12 months before the date that the person otherwise would be eligible for release to extended supervision. If DOC releases a person, his or her term of extended supervision must be extended by the length of time he or she was originally sentenced to confinement so that the total length of the sentence does not change.

Pre-Act, if a person sentenced to a bifurcated sentence violated any condition of his or her release to extended supervision, the person's extended supervision was

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revoked, he or she was returned to prison, and the division of hearings and appeals within DOA or DOC (reviewing authority) made a recommendation to the court that convicted the person as to how long the person should remain in prison. After it received the reviewing authority's recommendation, the court was allowed to order the person to remain in prison for a period that did not exceed the time remaining on his or her bifurcated sentence.

Under the Act, the reviewing authority determines how long to imprison the person whose extended supervision is revoked and enters its own order for the person to remain in prison for a period that does not exceed the time remaining on his or her bifurcated sentence.

This bill eliminates positive adjustment time and risk reduction sentences, restores the parole commission, eliminates the ERRC, and returns the sentencing provisions, and most of the provisions relating to early release from confinement to pre-Act law. Under the bill, a person may petition the sentencing court for release to extended supervision for the remaining term of his or her sentence if the person has an extraordinary health condition, reaches age 65 after serving at least five years of his or her term of confinement portion, or reaches age 60 after serving at least ten years of his or her term of confinement portion.

Under the bill, a person who was sentenced after October 1, 2009, but before the effective date of the bill, and who earned positive adjustment time during that period may petition the sentencing court for an early release to extended supervision. If the sentencing court agrees to reduce the confinement portion of the person's sentence by the number of positive adjustment time days he or she earned, the sentencing court must increase the term of extended supervision by the same number of days. Under the bill, a person who was sentenced to a risk reduction sentence after October 1, 2009, but before the effective date of the bill and who complied with the program plan developed by DOC may be released to extended supervision after he or she serves at least 75 percent of the confinement portion of his or her sentence.

*** ANALYSIS FROM -1136/P1 ***

This bill changes, from annual to biennial, the appropriation for the general program operations of DOC.

*** ANALYSIS FROM -0214/P5 ***

JUVENILE CORRECTIONAL SYSTEM

Must

by law Under current law relating to community youth and family aids, generally referred to as "youth aids," DOC is required to allocate various state and federal moneys to counties to pay for state-provided juvenile correctional services and local delinquency-related and juvenile justice services. DOC charges counties for the costs of services provided by DOC according to per person daily cost assessments specified in the statutes (the "daily rate"). Currently, the daily rate is \$275 for care in a juvenile correctional facility, \$275 for care for juveniles transferred from a juvenile correctional institution, \$313 for care in a residential care center for children and youth, \$200 for care in a group home, \$75 for care in a foster home, \$130 for care in a treatment foster home, \$103 for corrective sanctions services, and \$41 for aftercare services. This bill makes the following changes to those daily rates:

W/P

1. For fiscal year 2011-2012, the daily rate is \$284 for care in a juvenile correctional facility, \$284 for care for juveniles transferred from a juvenile correctional institution, \$99 for corrective sanctions services, and \$40 for aftercare services.

2. For fiscal year 2012-2013, the daily rate is \$289 for care in a juvenile correctional facility, \$289 for care for juveniles transferred from a juvenile correctional institution, \$100 for corrective sanctions services, and \$40 for aftercare services.

3. In addition, the bill eliminates the ~~specific dollar amounts for the~~ daily rates for care for juveniles in a residential care center for children and youth, group home, and/or foster home, and instead provides that the daily rate for each of those types of care is ~~an amount equal to~~ the amount the provider of that care charges DOC. The bill ~~also~~ deletes treatment foster care from the list of services for which DOC charges a daily rate. (statutory)

*** ANALYSIS FROM -0216/P1 ***

Under current law, DHS operates the Mendota Juvenile Treatment Center (center) as a juvenile correctional facility, to provide evaluations and treatment for juveniles whose behavior presents a serious problem to themselves or others in other juvenile correctional facilities and whose mental health needs can be met at the center. Currently, DOC is required to transfer to DHS for those services certain amounts of general purpose revenues and program revenues specified in the statutes. This bill sets those amounts for fiscal years 2011-12 and 2012-13.

*** ANALYSIS FROM -0203/P3 ***

~~Under current law relating to community youth and family aids (generally referred to as "youth aids"), DOC must allocate to counties various state and federal moneys to pay for state-provided juvenile correctional services and local delinquency-related and juvenile justice services.~~ This bill sets the ^{also total} amounts of youth aids that DOC must allocate to counties in the 2011-13 fiscal biennium, based on a 10 percent reduction from the 2009-11 fiscal biennium. The bill also deletes federal economic stimulus funds as a funding source for youth aids.

*** ANALYSIS FROM -0215/P3 ***

Under current law, sum certain amounts are appropriated to DOC for juvenile correctional services, juvenile residential aftercare services, and juvenile corrective sanctions services. This bill provides that, if there is a deficit in the juvenile correctional services appropriation account at the end of a fiscal year, certain unencumbered balances in the juvenile residential aftercare services and juvenile corrective sanctions services appropriation accounts, up to the amount of the deficit and less any amounts required to be remitted to counties or deposited in the general fund, are transferred to the juvenile correctional services appropriation account.

*** ANALYSIS FROM -1308/P2 ***

Under current law, DOA provides access to data lines, video links, and increased bandwidth to certain eligible educational entities and facilities. The Southern Oaks Girls School, the Ethan Allen School, and the Lincoln Hills School are juvenile correctional facilities that may receive that access for educational purposes.

For state-provided juvenile correctional services and local delinquency-related and juvenile justice services

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This bill deletes the Southern Oaks Girls School and the Ethan Allen School, and adds the Copper Lake School, as facilities that may receive that access.

Also under current law, DOC may, under certain circumstances, provide its employees with group transportation to the Ethan Allen School, the Taycheedah Correctional Institution, and the Fox Lake Correctional Institution. The bill deletes the Ethan Allen School as a destination for group transportation.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

Insert A

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

This bill increases the daily rates for care in a correctional and for care for transferred juvenile correction facility and for care for juveniles transferred a institution and decreases rates for sanctions and after care daily ~~rate~~ rates for corrective sanctions and after care services. ~~the~~ deletion the bill eliminates